

ORDINANCE NO. 28433

**AN ORDINANCE OF THE CITY OF SAN JOSÉ GRANTING A
COMMERCIAL SOLID WASTE AND RECYCLABLES
COLLECTION FRANCHISE TO SOUTH BAY HAULING INC. DBA
SOUTH BAY HAULING AND DBA ECO BOX RECYCLING**

WHEREAS, SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING has submitted an application to the City of San José for a Commercial Solid Waste and Recyclables Collection Franchise; and

WHEREAS, on October 28, 2008, the City Council held a public hearing to consider said application and to hear all persons desiring to be heard in favor of or in opposition to the granting of a Commercial Solid Waste and Recyclables Collection Franchise to SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING; and

WHEREAS, having considered all oral and documentary evidence presented on the matter of granting such franchise, the City Council has determined that the grant of such franchise to SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING is in the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The City Council hereby grants a Commercial Solid Waste and Recyclables Collection Franchise to SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING, pursuant to which SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING is authorized to engage in the business of collecting, transporting and disposing of Commercial Solid Waste and Recyclables kept, accumulated or produced in the City of San José and to use the public streets and rights of way for such purpose.

SECTION 2. The grant of said Commercial Solid Waste and Recyclables Collection Franchise is expressly subject to the terms and conditions of the City Charter, Chapter 9.10 of the San José Municipal Code, this Ordinance, and the Commercial Solid Waste and Recyclables Collection Franchise Agreement Between the City of San José and SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING ("Franchise Agreement"), as such now exist or as they may hereafter be amended.

SECTION 3. The Commercial Solid Waste and Recyclables Collection Franchise hereby granted to SOUTH BAY HAULING INC. DBA SOUTH BAY

HAULING AND DBA ECO BOX RECYCLING shall be for a term commencing December 18, 2008, and ending on June 30, 2009. The Council hereby authorizes the Director of Environmental Services, in the Director's discretion, to extend the term of this Franchise for up to two one-year increments by providing written notice to SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING; provided, however, that no such extension of the term of this Franchise shall become effective unless and until accepted in writing by SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING.

SECTION 4. Notwithstanding Section 3 of this Ordinance and notwithstanding any provision of the Franchise Agreement, the Commercial Solid Waste and Recyclables Collection Franchise may be terminated or suspended at any time in accordance with Section 9.10.1690 of Chapter 9.10 of the San José Municipal Code.

SECTION 5. Neither the Commercial Solid Waste and Recyclables Collection Franchise Agreement granted to SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING nor this ordinance authorizes SOUTH BAY HAULING INC. DBA SOUTH BAY HAULING AND DBA ECO BOX RECYCLING to operate any landfill, recycling facility or other solid waste disposal facility.

PASSED FOR PUBLICATION OF TITLE this 28th day of October, 2008, by the following vote:

AYES: CHIRCO, CHU, CORTESE, LICCARDO, NGUYEN,
OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CAMPOS, CONSTANT.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk